


**M E M O R A N D U M**  
**BOARD OF COUNTY COMMISSIONERS**  
**OFFICE OF THE COMMISSION AUDITOR**

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**TO:** Honorable Rebeca Sosa  
Commissioner District 6

**DATE:** November 4, 2004

**FROM:** Amy Gonzalez-Hernandez, Esq.  
Chief Legislative Analyst

 **SUBJECT:** Proposed Contractor  
Evaluation A.O.

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At the October 28, 2004 Procurement Management Policy Sub-Committee, you sponsored a resolution creating an administrative order (A.O.) that would provide a standard process for the evaluation of construction contractors and consultants during and immediately after completion of a Miami-Dade County project.

As you are aware, this item was deferred to a future Committee due to the inability of the Sub-Committee members to fully review the item and have all their questions addressed.

To assist in the refinement of the above item, attached are some issues that we noted with the proposed language. Please let us know if you would like further input.

Attachments

**Procurement Management Policy Sub-Committee Item 2(D)**  
**October 28, 2004**

*RESOLUTION PROPOSING AN ADMINISTRATIVE ORDER TO PROVIDE A  
STANDARD PROCESS FOR THE EVALUATION OF CONSTRUCTION  
CONTRACTORS AND CONSULTANTS DURING AND IMMEDIATELY  
SUBSEQUENT TO COMPLETION OF A MIAMI-DADE COUNTY PROJECT*

- Each category of evaluation is based on a scale of 1 to 4 (4 being the highest). The difference between "4-noteworthy" and "3-satisfactory" is that the latter means that no intervention was required (handwritten p. 8 and 9).
  - What exactly constitutes intervention?
  - What if intervention is required, but due to no fault of the contractor, such as an "unforeseen circumstance"? Should that prevent the contractor from getting a 4 rating? (Would a firm that has more "noteworthy" ratings than another firm be considered a better performer?)
  - There may also be differences in intervention needed due to the complexity of the project.
- An "Interim Evaluation" must be done if a firm is anticipated to receive a rating of "Unresponsive Performance". If there is a rating of "1-unresponsive", a Corrective Action Plan ("Plan") must be submitted within 10 working days of receipt of the evaluation to the Department (handwritten p. 8 and 9).
  - Since some contracts may only be 10 days long, what about a requirement that an Interim Evaluation be done within a certain amount of time BEFORE completion of the project, if possible, to allow time for the firm to correct their performance BEFORE job completion.
    - Would documentation of a "verbal warning" be sufficient in these instances?
- A sample Project Evaluation Form is attached.
  - Some of the criteria are very subjective. For example:
    - Commitment – intangibles and contribution to project success
    - Personnel – quality and dedication of project staff
    - Management – leadership skills of the command staff of firm

- The form was not included as an attachment to the A.O. because any modifications to the form would have to be legislatively amended. Instead, the A.O. makes a reference to the CICC website.
- The Firm Performance Review (FPR) Committee composition and term should be clarified (handwritten p. 10).
  - Will the panel only be composed of staff from CICC? Will members be limited to term or rotate? (For example, a long-time standing member may have familiarity with past performance of vendors over time that may bias their decisions OR could help them make better decisions)
  - How much of a time commitment will be required of the members (at least quarterly meetings to review status, appeals, reinstatements, etc.) and can it be done with existing staff? Will clerical support (such as to prepare reports or minutes of meetings) be necessary?
  - Any quorum requirements? What are the voting requirements (e.g. 2 to 1, unanimous, etc.)? The A.O. only specifies that the FPR Chair must concur when a finding of non-responsibility is for a firm that submitted the lowest bid.
- Once a firm is placed in "watch status", a copy of all pertinent documentation and a summary of events must be forwarded to the FPR Committee Chair at least 2 weeks prior to the scheduled Committee meeting (handwritten p. 10).
  - If the information is not ready two weeks prior, do the issues have to wait to be heard at the next scheduled meeting (which could be months away)?
  - Why is the information only submitted to the Chair in advance, and not the FRP Committee members as well?
- Generally, Prime firms are responsible for determining the responsibility of their subcontractors. Determination of subcontractor responsibility may affect the responsibility of the Prime Firm (handwritten p. 10).
  - Should we rely on the Prime firms to make the determination of responsibility of their subcontractors? For example, the subcontractor on one contract may also be a Prime Firm on another County contract, so the performance on all contracts need to be considered (not just the contract for which the firm is a subcontractor).
  - Should the "unresponsive performance" of a subcontractor necessarily affect the responsibility of a Prime firm, particularly if the Prime firm has no control over the reason for the low rating?

- Will staff allow the Prime Firm to change the Subcontractor, before it negatively impacts the Prime Firm's evaluation?
- Suspensions are for an indefinite period of time until the Firm submits a Corrective Action Plan ("Plan") to the FPR Committee, which may remove the Firm from Suspension status (handwritten p. 11).
  - The A.O. doesn't provide for requesting more frequent FPR Committee Meetings.
  - Since they are only held at least quarterly, what if a firm just misses the meeting but has its Plan ready?
    - Would they have to wait possibly another 3 months, before the suspension can be lifted so they can again bid on/be awarded work segments they were suspended from?
- The County will notify the Firm of the recommendation of the FPR Committee in writing by certified mail. (handwritten p. 11)
  - How will it be ensured that the Department will also be notified of the outcome(s)?
  - Who will maintain any written documentation (evaluations, Plans, summary of events, etc) provided at FPR Committee meetings?
- While in "Watch status", a Firm can bid or submit a proposal for *professional services* on any project; however the Department issuing the solicitation may consider the Firm's past performance in determining if the Firm is a responsible bidder/proposer for the given project (handwritten p. 11).
  - How exactly will departments check the past performance of firms and know if a firm is on "Watch status"?
  - It appears this provision only applies to "professional services" (and not also on construction), as this is specified in the A.O.
- The County Manager will appoint an independent party to act as the Hearing Examiner to review requests for appeals. (handwritten p. 12)
  - What exactly is meant by an independent party?
  - Will it be County staff? Will he/she be subject to the County Code of Ethics and Conflict of Interest provisions?

## Other Comments

- The A.O. should be more concise and less duplicative.
  - For example:  
In SECTION 2: FIRM EVALUATION PROCESSING, the process is explained twice, once in paragraph form and then by numbered steps. A majority of the paragraph on "Watch Status" is duplicated in SECTION 4: RESULTS OF FIRM PERFORMANCE REVIEW COMMITTEE DETERMINATION (handwritten p. 8 and 4, respectively)
  - For example:  
*Any firm whose performance is subject to review shall be notified by certified mail, that their performance is scheduled for review with the date and time of the meeting* (handwritten p. 10)  
could be revised to say  
*Any firm whose performance is subject to review shall be notified of the date and time of the meeting by certified mail.*
  - For example:  
In SECTION 6: FIRM REINSTATEMENT, the Corrective Action Plan is referred to as such, Corrective Plan of Action, and Plan in the same paragraph (handwritten p. 14). An abbreviation of "the Plan" is specified, but then not used throughout the section.
- The definitions in SECTION 1 are somewhat duplicative in that they are generally explained in the rest of the A.O.
- You have to go to different sections of the A.O. to get clarification on some aspects of the process. It may be clearer if there were more bullet points.

# Capital Improvements Information System Project Evaluation

Contract: DE 629001 Contractor: ~~629001~~ 629001 FEIN: 0 Evaluation Type: Standard Evaluation  
Department Contact: Keith Ng 305-372-6482

Evaluator ID: Anonymous Date: 10/28/2004 Period: Select Evaluation Period...

**Rating \***

	4	3	2	1	N/A	Criteria
1-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Schedule</b> - Quality of CPM & adherence to CPM resulting in timeliness and minimizing delay to the owner and community.
2-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Cost effectiveness &amp; efficiency</b> - Budget compliance & value of work.
3-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Vision</b> - Design - Concepts or appearance of project site.
4-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Cooperation</b> - Internal and external teamwork & relationship with citizens, owner, subs and suppliers.
5-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Coordination</b> - Ability to organize, schedule and produce results in adherence to the CPM, including subcontractors and suppliers, resulting in contract compliance.
6-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Accuracy &amp; Technical Skills</b> - Cost estimating, scheduling, shop and other drawings, plans, manuals, project documentation and conflict resolution.
7-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Completeness</b> - Compliance with contract documents, permits, Codes & standards.
8-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Responsiveness</b> - Timely, clear & concise responses to owner comments and correspondence.
9-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Commitment</b> - Intangibles & contribution to project success.
10-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Personnel</b> - Quality and dedication of project staff.
11-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Management</b> - Leadership skills of the command staff of firm.
12-	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<b>Quality</b> - Work performed correctly the first time.

Comment:

**\* Rating Key**

- 4 **Noteworthy performance** - Exemplary quality, no intervention required - project completed on time or early at or below budget with no change orders or amendments other than owner requested changes.
- 3 **Satisfactory performance** - Minor errors noted, addressed with timely corrective action. No serious errors noted or corrective action needed.
- 2 **Guarded performance** Errors and Omissions documented in writing with timely corrective action.
- 1 **Unresponsive performance** documented in writing without timely corrective action.
- N/A. No Information

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